

EXHIBIT S

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION

APTIVE ENVIRONMENTAL, LLC,

Plaintiff,

v.

VILLAGE OF EAST ROCKAWAY, NEW
YORK,

Defendant.

**DECLARATION OF
PIERSON (PIERCE) BALDWIN**

Case No. 2:19-cv-03365-SJF-SIL

JURY TRIAL DEMANDED

STATE OF NEW YORK §
COUNTY OF SUFFOLK §
§

1. My name is Pierson (Pierce) Baldwin. I am over twenty-one (21) years of age, I have never been convicted of a felony, and I am competent to make this declaration.

2. I am currently the Branch Manager of the Long Island office of Aptive Environmental, LLC (“Aptive”). Based on my service in this capacity, I have personal knowledge of all facts contained in this declaration, and those facts are true and correct.

3. Aptive is a national provider of residential pest control services, and its market includes cities throughout Long Island, including the Village of East Rockaway, New York. The company conducts its business almost exclusively through door-to-door sales, which enables our sales representatives to establish a relationship with the customer and personally assess the pest control needs of a residence. Aptive has found door-to-door interactions to be the most effective means of conducting its business and establishing customer relationships.

4. Each Aptive sales representative intending to conduct business on Long Island has undergone an independent background check through the third-party provider SimpliVerified, which is a member of the National Association of Professional Background Screeners and provides background checks for numerous corporations in their hiring processes.

5. The SimpliVerified service provides full criminal histories (including misdemeanors) at the federal, state, and local levels. Aptive reviews the SimpliVerified data on each salesperson prior to hiring and routinely offers the results to law enforcement as a show of cooperation with local authorities and to save time and expense. Aptive's cost to perform a SimpliVerified background check on each prospective salesperson is not more than \$50.

6. Aptive also requires each of its salespeople to comply with all local regulations concerning door-to-door solicitation, including all licensing requirements. If a municipality requires a background check and license fee in its ordinance, Aptive pays that fee for each of its salespeople.

7. In my role as Branch Manager, I have personally supervised the solicitor licensing application process for Aptive salespeople in more than 30 Long Island municipalities. Based on that experience, I am familiar with the standard background check and license fee procedures for municipalities on Long Island in 2019.

8. In my role as Branch Manager in 2019, I have observed background check fees as low as \$25 per solicitor license application. The highest background check fee I recall on Long Island was \$125 per solicitor license application. The fees which exceed \$100 per application have typically involved fingerprinting as well as a background check. For background checks alone, I do not recall a fee higher than \$100 per license application.

9. I have also reviewed the fee charged by the New York Office of Court Administration for the statewide Criminal History Record Search. That fee is currently \$95 per individual search. A true and correct copy of that information, posted on the website of the New York State Unified Court System, is attached to this declaration as Exhibit 1.

10. Aptive sales representatives intended to apply for licenses in East Rockaway in September 2019 but were prevented from doing this by the \$200 license fee and \$25 process fee in the new ordinance. Aptive also intends to apply for licenses to solicit in the Village of East Rockaway in February 2020.

11. The \$200 per solicitor license fee is a substantial cost for Aptive's business, requiring Aptive to spend thousands of dollars just to receive door to door soliciting licenses in the Village.

12. The high fees in the Village make it too expensive for Aptive to conduct business there. In this way, the \$200 license fee acts as a ban on Aptive from soliciting in the Village.

13. Aptive has lost thousands of dollars in revenue during the month of September 2019, when the \$200 licensing fee prevented it from soliciting in the Village of East Rockaway. Aptive will continue to lose thousands in revenue in 2020 from being prevented from soliciting by the \$200 license fee.

14. The \$200 license fee has interfered with Aptive's unique business model, which depends on establishing a personal and trusting relationship with its customers, getting to know their homes and their individual needs so as to customize and tailor the service it provides. Aptive's and its founder's many years in the industry have underscored that other forms of less personal marketing—including phone solicitation, email campaigns, and web advertisements—are simply

not an effective means for establishing or maintaining this necessary personal relationship with its customers.

15. The \$200 license fee has kept Aptive from receiving licenses in East Rockaway in 2019 and it will continue to keep Aptive from getting licenses in 2020, meaning Aptive has and will be unable to effectively and efficiently serve any current or future customers in the Village.

16. I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 25, 2019

in Suffolk County, State of New York.



PIERSON (PIERCE) BALDWIN

EXHIBIT 1

[SEARCH NYCourts.gov](#)

NEW YORK STATE UNIFIED COURT SYSTEM

Criminal History Record Search

[CHRS Home](#)[Application Form](#)[Sample Reports](#)[FAQ's](#)[Criminal Records & Sealing](#)[Misdemeanor Redemption Policy](#)[Online Direct Access \(Submit a Search Request Online\)](#)[Earliest Available Year for CHRS Data \(By County\)](#)[NY State Laws \(Penal Laws, VTL laws, Administrative Codes, etc.\)](#)[Court Addresses & Phone Numbers](#)[Town & Village Courts Reporting to OCA](#)[Contact Us](#)

Overview

INTRODUCTION

The New York State Office of Court Administration (OCA) provides a New York Statewide criminal history record search (CHRS) for a fee of \$95.00. You can submit a CHRS request via our on-line Direct Access program or by mailing in a CHRS application form. The search criteria is strictly based on an exact match of Name and DOB (variations of Name or DOB are not reported). Background checks for companies are also part of the CHRS program. The search results are public records relating to open/pending and convictions in criminal cases originating from County/Supreme, City, Town and Village courts of all 62 counties. Sealed records are not disclosed. Town & Village criminal disposition data is limited (see [CHRS FAQs](#)).

The New York Statewide CHRS report has the following limitations and restrictions:

- The report does not include Family, Civil, or Federal court case information.
- The NY Statewide CHRS Report is based on an 'exact match' of Name and DOB. Any 'variation' of the individual's Name and DOB is not considered a match.
- The report is subject to non-disclosure of certain case dispositions due to NYS Office of Court Administration's policies (e.g., Misdemeanor Redemption, non-criminal offense cases) or sealed records under NYS law.
- Town Court and Village Court disposition data is not available for the period May 1991 through 2002. As of May 2007, all Town and Village Courts report to OCA. Town and Village disposition data from 2002 through 2007 is limited.
- In accordance with the Youthful Offender Legislation CPL720.15(1), the NY Statewide CHRS report will not report pending criminal cases categorized as Youthful Offender Eligible.
- Criminal cases 'Transferred' or 'Removed' (CPL 725) to Family Court are not reported.
- **Please be advised:** The NY Statewide CHRS Report reflects 'electronic data' furnished to the NYS Office of Court Administration (OCA). Occasionally, critical information is not reflected in the transmission to OCA, which will result in an error in the CHRS Report.
- The NY Statewide CHRS report is not a nationwide background check.
- The NY Statewide CHRS report is not an FBI background search check.
- The report does not include case dispositions for 'non-criminal offenses' (e.g., Violations, Infractions).
- The report does not include case dispositions for individuals whose only conviction was a single

returned check charge will be imposed on items returned by the bank.

FILING INSTRUCTIONS

Applications may be mailed to, or filed in person weekdays 9:30 a.m. to 4:30 p.m., at:
Criminal History Record Search
NYS Office of Court Administration
Office of Administrative Services
Criminal History Record Search
25 Beaver Street (Room 840 - Front Desk)
New York, NY 10004

CHRS@nycourts.gov

Applications **hand delivered** are, in most cases, completed within the next business day.

Applications **filed by mail** must include a self-addressed postage paid envelope to receive the criminal history search results. Upon receipt these requests are also processed within the next business day.

PICK-UP INSTRUCTIONS

Hand delivered applications for subsequent pick up must include a self-addressed envelope indicating "**Hold For Pick-Up.**" Blank application forms can be picked up at the same address listed above between the hours of 9:30 a.m. and 4:30 p.m.

CHRS RESULTS

The results of the search can be **picked up, mailed** (include a self-addressed stamped envelope) or **emailed** (include an email address on the application form.)

CHRS INQUIRIES

Inquiries regarding criminal disposition data should be directed to OCA's Criminal History Record Search Unit at (212) 428-2943 between the hours of 9:30 a.m. and 4:30 p.m.